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NOTICE OF ALLOWANCE AND FEE(S) DUE

27074 7590 05/16/2011 OLIFF & BERRIDGE, PLC. P.O. BOX 320850 ALEXANDRIA, VA 22320-4850 EXAMINER

SALVITTI, MICHAEL A

ART UNIT PAPER NUMBER

1767

DATE MAILED: 05/16/2011

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,146	01/28/2004	Guerino G. Sacripante	118411	9731

TITLE OF INVENTION: EMULSION AGGREGATION PROCESS FOR FORMING CURABLE POWDER COATING COMPOSITIONS, CURABLE POWDER COATING COMPOSITIONS AND METHOD FOR USING THE SAME

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	08/16/2011

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN <u>THREE MONTHS</u> FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. <u>THIS STATUTORY PERIOD CANNOT BE EXTENDED.</u> SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

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III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

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maintenance fee notificat	ions.	ng the Patent, advance of nerwise in Block 1, by (a lock 1 for any change of address)	Fee(: A certificate of r	nailing	can only be used fo	r domestic mailings of the
OLIFF & BERI P.O. BOX 32085 ALEXANDRIA,	,	5/2011	pape have	rs. Each additional its own certificate Cert	paper, of mail	such as an assignment ing or transmission. of Mailing or Transi	nt or formal drawing, must
			<u> </u>				(Depositor's name)
			<u> </u>				(Signature)
							(Date)
APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR		ATTORNEY DOCKET NO. CONFIRMATIO		CONFIRMATION NO.
10/765,146	01/28/2004		Guerino G. Sacripante			118411	9731
		EGATION PROCESS FO METHOD FOR USING T		E POWDER COAT	TING (URABLE
APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE	FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0		\$1810	08/16/2011
EXAM	INER	ART UNIT	CLASS-SUBCLASS				
SALVITTI, M	MICHAEL A	1767	523-400000	l			
"Fee Address" indi PTO/SB/47; Rev 03-0: Number is required. 3. ASSIGNEE NAME AT PLEASE NOTE: Unlo	ondence address (or Cha 3/122) attached. cation (or "Fee Address' 2 or more recent) attached ND RESIDENCE DATA ess an assignee is identian in 37 CFR 3.11. Comp	" Indication form ed. Use of a Customer A TO BE PRINTED ON a	2. For printing on the part (1) the names of up to or agents OR, alternative (2) the name of a single registered attorney or a 2 registered patent attor listed, no name will be THE PATENT (print or type data will appear on the part a substitute for filing and (B) RESIDENCE: (CITY)	3 registered patent rely, e firm (having as a gent) and the name neys or agents. If n printed.	membe s of up o name	entified below, the do	xument has been filed for
Please check the appropri	ate assignee category or	categories (will not be pr	rinted on the patent):	Individual 🖵 Cor	poratio	on or other private gro	up entity Government
4a. The following fee(s) are submitted: ☐ Issue Fee ☐ Publication Fee (No small entity discount permitted) ☐ Advance Order - # of Copies			b. Payment of Fee(s): (Plea	d. Form PTO-2038	is attacl	hed.	
	s SMALL ENTITY statu	us. See 37 CFR 1.27.	b. Applicant is no long d from anyone other than the Office.				
Authorized Signature				Date			
Typed or printed name				Registration No.			
This collection of information application. Confident submitting the completed this form and/or suggestic V.	ation is required by 37 C iality is governed by 35 I application form to the ons for reducing this but is single 22313 1450 DO	CFR 1.311. The information U.S.C. 122 and 37 CFR USPTO. Time will vary rden, should be sent to the proof SEND FEES OR (on is required to obtain or re 1.14. This collection is estived epending upon the indiverse Company of the company of the Chief Information Office	etain a benefit by the mated to take 12 m idual case. Any cor r, U.S. Patent and T D.THIS ADDRESS	e publi inutes nments Tradema	c which is to file (and to complete, including on the amount of ting ark Office, U.S. Depart	by the USPTO to process) g gathering, preparing, and ne you require to complete urtment of Commerce, P.O.

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10/765,146	01/28/2004	Guerino G. Sacripante	118411	9731	
27074 75	90 05/16/2011	EXAMINER			
OLIFF & BERRIDGE, PLC.			SALVITTI, MICHAEL A		
P.O. BOX 320850					
ALEXANDRIA, VA 22320-4850			ART UNIT	PAPER NUMBER	
			1767		

DATE MAILED: 05/16/2011

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 832 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 832 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

- 1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
- 2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
- 3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
- 4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
- 5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
- 6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
- 7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
- 8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
- 9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

	Application No.	Applicant(s)
	10/765.146	SACRIPANTE ET AL.
Notice of Allowability	Examiner	Art Unit
	 MICHAEL A. SALVITTI	1767
The MAILING DATE of this communication app All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED ir) or other appropriate commu IGHTS. This application is s 3 and MPEP 1308.	th the correspondence address this application. If not included unication will be mailed in due course. THIS
1. A This communication is responsive to the amendment rece	ived March 1 st , 2011.	
2. X The allowed claim(s) is/are 1,3,5-7,10,11,13-21,23-31,34-	<u>38 and 41-44</u> .	
 3. Acknowledgment is made of a claim for foreign priority u a) All b) Some* c) None of the: 1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority do 	e been received. e been received in Applicatio	n No
International Bureau (PCT Rule 17.2(a)). * Certified copies not received:		
Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONN THIS THREE-MONTH PERIOD IS NOT EXTENDABLE. 4. A SUBSTITUTE OATH OR DECLARATION must be submin INFORMAL PATENT APPLICATION (PTO-152) which giv	MENT of this application. nitted. Note the attached EXA	MINER'S AMENDMENT or NOTICE OF
5. CORRECTED DRAWINGS (as "replacement sheets") mu	st be submitted.	
(a) I including changes required by the Notice of Draftspers	son's Patent Drawing Reviev	v (PTO-948) attached
1) 🔲 hereto or 2) 🔲 to Paper No./Mail Date		
(b) ☐ including changes required by the attached Examiner Paper No./Mail Date Identifying indicia such as the application number (see 37 CFR 1		
each sheet. Replacement sheet(s) should be labeled as such in	the header according to 37 CF	R 1.121(d).
 DEPOSIT OF and/or INFORMATION about the depo- attached Examiner's comment regarding REQUIREMENT 		
Attachment(s) 1. ☐ Notice of References Cited (PTO-892) 2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material	6. ☐ Interview S Paper No./ 7. ☐ Examiner's	formal Patent Application ummary (PTO-413), Mail Date Amendment/Comment Statement of Reasons for Allowance
/M. A. S./	/Mark Eashoo	
Examiner, Art Unit 1767		tent Examiner, Art Unit 1767

DETAILED ACTION

Response to Amendment

Amendment to claims 1 and 10, requiring the surfactant to be an anionic surfactant, has overcome issues pertaining to the rejection of claims scope of enablement. The rejection of claims 1, 3, 5-7, 10-11, 13-16, 21, 23, 30-31, 34-38 and 41-44 under 35 U.S.C. § 112, first paragraph has been withdrawn.

Response to Arguments

The following responses are directed to the document entitled "Remarks" (pages 9-15) received March 1st, 2011.

- **A)** Applicant's arguments with respect to the rejection of claims 1, 3, 5-7, 10-11, 13-16, 21, 23, 30-31, 34-38 and 41-44 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,210,853 to *Patel et al.* in view of US 2002/0107306 to *Wang et al.* have been fully considered and are persuasive in view of the presently amended claims.
- 1) In the paragraph bridging pages 10 and 11, applicant argues that *Patel* is drawn to a an *emulsion polymerization process*, and not an emulsion aggregation process, whereas *Wang* is drawn to an *emulsion aggregation process*, therefore rendering *Patel* and *Wang* non-combinable.

This argument alone is not persuasive. For clarification of the record, applicant's interpretation of *Patel* is incomplete, for the reason that applicant has considered only a fraction of *Patel*'s invention and not the invention in its entirety. *Prior*

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to the emulsion aggregation process, *Patel* does prepare a resin by emulsion polymerization. This emulsion polymerization process encompasses steps (i)-(ii) in the process outlined in the Abstract of *Patel*, and illustrated by the Examples in 14:55-16:48). Once the resin is prepared, *Patel* uses this formed resin in a substantially similar emulsion aggregation process as the instant claimed invention; this process is outlined in steps (iii)-(viii) in *Patel* Abstract and demonstrated in Examples 1-8 has been interpreted to be an emulsion aggregation, because it does use cationic surfactants (e.g. dialkylbenzenealkyl ammonium chloride In Examples 1-6 is a cationic surfactant and an aggregating agent). The instant invention does not require a preparation step for the resin; a preparation process is shown in *Patel*, although the preparation of the polymer was not relied upon to address the instant invention.

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- **2)** Applicant's arguments (middle of page 11-bottom of page 12) in view of the presently amended claims have been considered and have been found to be persuasive.
- a) Patel does not teach or suggest that epoxy resins could be used in his invention, which appears to be drawn primarily to vinyl/acrylic polymers. Although Wang does teach that epoxy resins have utility in the avoidance of stains, vinyl/acrylic resins and epoxy resins are not considered by either reference to be equivalents, and a person having ordinary skill in the art would not have had motivation to make the substitution in the process of Patel, due to the different cure chemistries in the two resins, and no particular teaching in Patel desiring stain-resistant toner particles.

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b) Amendment limiting the surfactant to an anionic surfactant has been determined to overcome the teaching of *Patel*, for the reason that *Patel* does not teach or suggest both an anionic surfactant and an aggregating agent during the emulsion aggregation process. *Wang* does not cure this deficiency in view of the differing polymer chemistries.

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The rejection of claims 1, 3, 5-7, 10-11, 13-16, 21, 23, 30-31, 34-38 and 41-44 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,210,853 to *Patel et al.* in view of US 2002/0107306 to *Wang et al.* has been withdrawn.

B) Applicant's arguments with respect to the rejection of claims 1, 3, 5-7, 10-11, 13-16, 21, 23, 30-31, 34-38 and 41-44 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,622,806 to *Veregin et al.* in view of US 2002/0107306 to *Wang et al.* (pages 12-14) have been fully considered and are persuasive in view of the presently amended claims.

Like *Patel*, *Veregin* is primarily directed to emulsion aggregation processes for vinyl/acrylic type polymers, and does not teach or suggest a process for emulsion aggregation epoxy resins using aggregating agent and anionic surfactant, and is not concerned with the feature of making a stain-resistant toner. Therefore, the rejection of claims 1, 3, 5-7, 10-11, 13-16, 21, 23, 30-31, 34-38 and 41-44 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,622,806 to *Veregin et al.* in view of US 2002/0107306 to *Wang et al.* has been withdrawn.

Allowable Subject Matter

Claims 1, 3, 5-7, 10-11, 13-21, 23-31, 34-38 and 41-44 allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record does not teach or suggest the claimed process for aqueous epoxy emulsion aggregation, and the powders obtained from the claimed process.

Pertaining to the claimed emulsion aggregation process as applied to epoxy resins, *Patel* and *Veregin* are the closest prior art references of record. Although *Patel* and *Veregin* are drawn to a similar general emulsion aggregation process as the claimed invention, the processes of both *Patel* and *Veregin* appear to be specific to vinyl/acrylic polymers. Neither *Patel*, *Veregin*, nor the prior art of record teach or suggest that epoxy resins would either be beneficial, or be compatible with the emulsion aggregation method using aggregating agents and anionic surfactants.

Pertaining to the claimed product resulting from the claimed process, a coalesced epoxy particle powder containing curing agent, surfactant and aggregating agent is the envisaged from the process of the claimed invention. While *Wang* teaches epoxy particles anionic surfactant and aggregating agent (e.g. Examples), *Wang* does not appear to 1) add aggregating agent prior to heating (*Patel* and *Veregin* were relied on for this feature in the previous rejections), thereby ensuring aggregating agent is contained within the particles; and 2) add curing agent while the epoxy particles are in dispersion and prior to removal from solvent as required by claim 1 (d), which would presumably result in a premature crosslinking and/or lesser amount of curing agent being present in the instant invention as compared to *Wang*. The prior art of record

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does not teach or suggest the necessary modifications to *Wang* to arrive at the claimed invention.

The product of claims 7 and 15 have been found to be novel and non-obvious, and therefore the powder coating and processes dependent thereon have been rejoined (MPEP § 806.05(h)).

Election/Restrictions

Claims 7, 15-16, 21, 23 and 34-38 directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 17-20 and 24-29, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on January 25th, 2008 is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL A. SALVITTI whose telephone number is (571)270-7341. The examiner can normally be reached on Monday-Thursday 8AM-7PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/ /M. A. S./

Supervisory Patent Examiner, Art Unit 1767 Examiner, Art Unit 1767